

TYPES OF EMPLOYMENT

OBJECTIVE

It is the Commonwealth's objective to identify the different categories of employment and the terms and conditions of each.

I. EMPLOYEES TO WHOM POLICY APPLIES

The employment terms and conditions described herein apply to employees according to their particular employment categories.

II. DEFINITIONS

A. Covered employees

Those employees covered under the Virginia Personnel Act, as designated below.

1. Classified employees
Employees who occupy positions within the occupational families that are listed in the Commonwealth's Compensation Plan, and who are covered by the Virginia Personnel Act, as found in Title 2.2 of the Code of Virginia, once they have completed the probationary period.
2. Restricted employees
Classified employees whose positions receive 10 percent or more of required funding from non-continuous or non-recurring funding sources, such as grants, donations, contracts, capital outlay projects, or higher education auxiliary enterprise revenues.

NOTE: Employees may be designated:

- "F" - full time classified, 100% employee working 9, 10 or 11 months;
- "Q" - full-time classified 80% to 99.99% employee working 12 months; or
- "P" – part time 50% to 79.99% employee working 12 months or less than 100% employee working 9, 10 or 11 months.

B. Non-covered employees

Employees in the Executive, Judicial and Legislative Branches who are not covered by the Virginia Personnel Act. Examples include presidents and teaching and research staffs of state educational institutions; Chief Deputy; Agency Head; at-will employees, etc.

C. Wage employees

Employees not covered by the Virginia Personnel Act, (also referred to as hourly, P-14, or WE-14 employees), who are non-exempt for purposes of overtime compensation, and who are used to supplement the work force during seasonal or

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temporary workloads, to provide interim replacements, or to perform short-term projects or other jobs that do not require classified employees.

III. TERMS AND CONDITIONS OF EMPLOYMENT

This section is not intended to set forth every term and condition for every type of employment, but rather states the basic terms and conditions that distinguish each employment category.

A. Covered employees

1. Classified employees
 - a. Tenure of employment
Employees covered by the Act have no guarantee of employment for a particular term, and may be terminated in accordance with policy.
 - b. Compensation
 - (1) Compensation must be within the Pay Band to which an employee's position is assigned.
 - (2) Compensation is determined by Policy 3.05, Compensation, and other policies related to compensation and classification that may be promulgated by the Department of Human Resource Management.
 - c. Benefits
Classified employees are entitled to:
 - (1) accumulate and use paid leave and to take unpaid leave, as provided by the leaves of absence policies;
 - (2) if full-time (F or P), participate in the state's health and life insurance plans;
 - (3) if classified, participate in the state's retirement plan; and
 - (4) receive benefits accorded by the Virginia Workers' Compensation Act.
 - d. Grievance procedure
Eligible classified employees are entitled to use the Grievance Procedure for State Employees, or the State Employees' Discrimination complaint procedures.
 - e. Personnel policies
The personnel policies promulgated by the Department of Human Resource Management apply to employees covered by the Virginia Personnel Act.
2. Classified restricted Employees
 - a. Tenure of employment
Classified restricted employees have no guarantee of employment for a particular term, and may be terminated in accordance with policy. Classified Restricted employees will have access to the

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- provisions of Policy 1.30, Layoff, only if their immediate prior service was as a classified full-time employee. (See Policy 1.30, Layoff.)
- b. Compensation
Same as set forth in section III(A)(1)(b) above.
- c. Benefits
Same as set forth in section III(A)(1)(c) above.
- d. Grievance procedure
Eligible classified restricted employees are entitled to use the Grievance Procedure for State Employees except to grieve actions covered by Policy 1.30, Layoff. Such employees are also entitled to use the State Employees' Discrimination Complaint procedures
- e. Personnel policies
The personnel policies promulgated by the Department of Human Resource Management apply to classified restricted employees unless particular policies, such as Policy 1.30, Layoff, expressly exclude such from their application.

B. Non-covered Employees

- 1. Terms and conditions of employment
Terms and conditions of employees who are not covered by the Virginia Personnel Act are established by their agencies, the agencies' governing bodies, or the Governor.
- 2. Compensation
Non-covered employees' compensation will be determined by the employing agency.
- 3. Benefits
Non-covered employees' benefits will be determined by the employing agency.
- 4. Non-covered employees who change to classified employment
 - a. Period of non-covered employment applied to classified employment
A non-covered employee who enters classified employment without a break in service shall have his or her period of service in the non-covered position applied toward classified service for the purposes of:
 - (1) determining the rate of annual leave accumulation;
 - (2) meeting the five year requirement for payment of accumulated sick leave upon termination from state employment;
 - (3) determining seniority as it is considered by Policy 1.30, Layoff, and
 - (4) VSDP months of service.
 - b. Transfer of accrued annual and/or sick leave

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If either the annual leave or sick leave accrual system of a non-covered employee is the same as that for a classified employee, a non-covered employee who enters classified employment may transfer, with agency approval, those annual leave and/or sick leave balances that were accrued in the same manner.

- c. Probationary period
A covered employee who enters classified employment must serve a probationary period. (See Policy 1.45, Probationary Period.)

C. Wage employees

- 1. Tenure of employment
 - a. Wage employees have no guarantee of employment for a particular term, serve at the pleasure of the appointing authority, and may be terminated from employment at any time.
 - b. Wage employees are limited to working 1,500 hours per agency per year, which is considered to be the 365-day period following a wage employee's first day of employment.
 - (1) Once an employee has reached the maximum of 1,500 hours per 365-day period, he or she may not be permitted to work again in that agency until the 365-day period has expired.
 - (2) Any exceptions to the limit of 1,500 hours of work in a 365-day period must be approved by the Cabinet Secretary for the respective agency.
 - (3) Rehiring a wage employee during the same 365-day period in which he or she already worked the maximum 1,500 hours is expressly prohibited, unless an exception has been granted.
 - (4) Once a wage employee has completed 1,500 hours within a 365-day period, the next 365-day period shall be calculated beginning with the employee's subsequent date of rehire.
 - (5) Agencies shall maintain accurate documentation of the hours worked by wage employees.
- 2. Compensation
 - a. Wage employees shall be paid only for actual hours worked; therefore, records of hours worked must be kept for all wage employees.
 - b. Compensation must be within the Pay Band to which an employee's position is assigned.
 - c. Compensation is determined by Policy 3.05, Compensation, and any other policies related to compensation and classification that may be promulgated by the Department of Human Resource Management.

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- d. Wage employees shall receive all wage increases granted by the Governor and/or the General Assembly, and the Department of Human Resource Management will advise agencies regarding such adjustments.
 - e. Wage employees shall be considered non-exempt for the purposes of application of the Fair Labor Standards Act.
- 3. Benefits

Wage employees are not entitled to the benefits listed above for covered employees, except that wage employees:

 - a. are covered by the Workers' Compensation Act;
 - b. shall be allowed leave without pay for family and medical reasons in accordance with Policy 4.20, Family and Medical Leave; and
 - c. shall be allowed leave for military service. When a wage employee enters active military service, reemployment will be granted under the terms provided for in the United Services Employment and Reemployment Rights Act (USERRA).
- 4. Grievance procedure

Wage employees are not entitled to use the Grievance Procedure for State Employees. However, wage employees may consult with the Department Employee Relations Counselors on work-related problems. Such employees are also entitled to use the State Employees' Discrimination Complaint procedures.
- 5. Personnel policies
 - a. The personnel policies promulgated by the Department of Human Resource Management apply to wage employees only as specified in each policy.
 - b. Performance evaluation
 - (1) Agencies may develop an evaluation system to review wage employees' performance.
 - (2) Agencies may not use the Employee Work Profile form that is described in Policy 1.40, Performance Planning and Evaluation for evaluating wage employees.
 - (3) Wage employees are not eligible for *exceptional pay awards*.
- 6. Authorization for wage employees

For classifications which are not approved by blanket authorization from the Department of Human Resource Management, authorization for wage employment must be individually approved through the Department of Human Resource Management's Office of Agency Human Resource Services.
- 7. Change to covered employment
 - a. Wage employees may apply for classified positions.
 - b. A wage employee who is hired into a classified position shall not receive service credit for any period of wage employment.

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IV. AUTHORITY AND INTERPRETATION

This policy is issued by the Department of Human Resource Management pursuant to the authority provided in Title 2.2, of the Code of Virginia. This policy supersedes Policy 2.82, Types of State Service-Excepted Employment, issued September 15, 1986; Policy 2.87, Types of State Service-Wage Employment, issued September 1, 1988; and Rule 7.2, Types of Appointment; Rule 7.10, Tenure of Employment; and Rule 10.3(b), Eligibility for Leave of Absence; of the Rules for the Administration of the Virginia Personnel Act, effective July 1, 1977.

The Director of the Department of Human Resource Management is responsible for official interpretation of this policy, in accordance with section 2.2-1201 of the Code of Virginia. Questions regarding the application of this policy should be directed to the Department of Human Resource Management Agency Human Resource Services. The Department of Human Resource Management reserves the right to revise or eliminate this policy as necessary.